



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-90,986-01

EX PARTE STEVEN CRAIG MALLET, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 1230338-A IN THE 178TH DISTRICT COURT
FROM HARRIS COUNTY**

***Per curiam.* RICHARDSON, J., filed a concurring opinion, in which HERVEY, NEWELL, and WALKER, JJ., joined. YEARY, J., concurred.**

OPINION

Applicant was convicted of delivery of a controlled substance in Penalty Group 1, less than 1 gram, and sentenced to 10 months' imprisonment. Applicant did not file a direct appeal. Applicant filed this application for a writ of habeas corpus in the county of conviction, and the district clerk forwarded it to this Court. *See* TEX. CODE CRIM. PROC. art. 11.07.

This computer-generated application does not duplicate the formatting of this Court's Art. 11.07 writ application form and is therefore non-compliant. *See* TEX. R. APP. P. 73.2. However, the State agrees with the trial court's recommendation to grant relief. Therefore this Court will not dismiss the application. *See Ex parte Golden*, 991 S.W.2d 859 (Tex. Crim. App. 1999).

Applicant contends that he is actually innocent. Based on the record, the trial court has determined that Applicant has established by clear and convincing evidence that he is actually innocent.

We agree. Relief is granted. *Ex parte Elizondo*, 947 S.W.2d 202 (Tex. Crim. App. 1996); *Ex parte Tuley*, 109 S.W.3d 388 (Tex. Crim. App. 2002). The judgment in cause number 1230338 in the 178th District Court of Harris County is set aside.

Delivered: April 14, 2021
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